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Situation of human rights in Afghanistan

Note by the Secretary-General

Addendum

The Secretary-General has the honour to transmit to the members of the General Assembly an addendum to the interim report on the situation of human rights in Afghanistan prepared by Kamal Hossain, Special Rapporteur of the Commission on Human Rights.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan

Addendum

I. Introduction

1. The tragic events of 11 September 2001 have dramatically affected the overall situation in Afghanistan. The present addendum to the main report prepared at the end of August 2001 (A/56/409) became necessary in order to describe the impact of those events on the rapidly changing situation in Afghanistan and their implications for the human rights of the Afghan people. The Special Rapporteur visited Pakistan and the Islamic Republic of Iran on an emergency basis from 22 to 30 October 2001. Meetings were held with governmental representatives, United Nations agencies, NGOs and Afghan refugees, in particular those who had arrived recently, in Pakistan and the Islamic Republic of Iran.

2. The original report had re-emphasized the need for a comprehensive settlement that would introduce a framework change aimed at initiating a process through which a unified Afghanistan could be restored to all of its people. The continuing armed conflict, externally supported, had all along been identified as the root cause of the deteriorating human rights situation. The Secretary-General, in his report prepared in June 2000 (A/54/918-S/2000/581), had noted that 20 years after the invasion of Afghanistan in 1979 and after billions of dollars had been expended to feed successive war efforts, Afghanistan remained in a state of acute crisis, with its resources depleted, its intelligentsia in exile, its people disenfranchised, its traditional political structures shattered and its human development indices among the lowest in the world. Some 20 to 22 million Afghans who remained in the country continued to suffer violations of human rights and from repeated breaches of international humanitarian law. Recurrent armed conflict between warring factions subjected them to bombardment from the air and from tanks and heavy artillery, which claimed countless civilian lives and caused widespread destruction of their property and sources of livelihood. They were virtually hostages in their own land, trapped in situations not of their making, and were targets of lawless violence and massacres. This had resulted in more than five million Afghans becoming refugees and in massive internal displacement.

3. The original report had also described the deepening humanitarian crisis. This was the result of armed conflict, a war-devastated economy and severe drought extending over three successive years, which had destroyed agriculture and livestock, threatening some 3.8 million people with starvation. The gross deficit in humanitarian assistance was evident from the fact that the revised amount of the 2001 Appeal for 283 million dollars had evoked a response from donors as of mid-August 2001 of only a little over 40 per cent, or 114 million dollars.

4. Few people have suffered as the Afghans have for over two decades. Yet, in early 2001 it seemed that they were becoming a forgotten and abandoned people as humanitarian crises in other parts of the world diverted international attention and humanitarian assistance. As was pointed out in the Special Rapporteur's report of March 2001 (E/CN.4/2001/43 and Add.1), the appeal for humanitarian assistance for Afghans for 2001 had estimated the "bare bones" requirements to be US$ 229 million, or roughly US$ 10 per Afghan for the whole year. Past experience showed that Afghans received only about half the requested amount, or roughly five dollars per Afghan. By contrast, the donor response in 2001 for Angola was US$ 47.98 per capita and for East Timor was US$ 139.11.

5. Following the horror and shock caused by the tragic events of 11 September 2001, terrorism became an issue of the highest priority on the international agenda. The efforts to identify its perpetrators and causes brought Afghanistan into central focus as suspected links were reported to have been found with certain elements in that country. While heightened global concern about terrorism had raised critical issues which were being evaluated and about which decisions were being taken at the highest policy-making levels and official investigations were undertaken, an international coalition was formed with the declared objective of combating terrorism.

6. Even as the ultimatum of the international coalition for the handing over of persons alleged to be responsible for terrorism remained unmet, there was mounting concern about the extreme vulnerability of the men, women and children of Afghanistan to the negative impacts of military action. The unceasing violence of the past 23 years had left 1 million dead. Over 4 million Afghans were still refugees in neighbouring countries. The number of internally displaced persons increased to more than 1 million as people rushed from one place to another in quest of survival as borders of neighbouring countries were closed. The withdrawal of United Nations international staff and those of the humanitarian agencies disrupted the arrangements for delivery of humanitarian assistance.

7. A joint statement issued on 25 September 2001 by six heads of United Nations entities (the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP), the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat and the Office of the United Nations High Commissioner for Human Rights) appealed to the international community — especially the countries in the region — to help prevent further tragedy by supporting humanitarian relief efforts, by pressing for safe international humanitarian access to all populations in need, by assuring the safety and security of international and national relief personnel, by supporting all measures that lessen the chance of a humanitarian catastrophe in Afghanistan and neighbouring countries, and by opening borders to those in need and urged more international support for asylum States to ensure that their borders were open to all those who deserve protection and humanitarian assistance.

II. Post-11 September developments and their impact on the human rights situation and humanitarian assistance

8. Since 11 September, there has been a dramatic change in the situation of Afghanistan and its long-suffering people. Even before 11 September, Afghanistan was in a state of deepening crisis. The continuing armed conflict, externally supported, was identified as the root cause of the deteriorating human rights situation. Afghans found themselves powerless. They were victims of serious violations of human rights under an authoritarian regime. They suffered arbitrary detention, cruel, inhuman and degrading punishments, summary executions and massacres. Systematic discrimination against women was practised through a series of legislative decrees, denying them access to employment, education and health services. Minorities were victims of violence and discriminatory measures. All this had led to increasing internal displacement and significant new refugee flows starting at the end of 2000 and accelerating in early 2001. The Special Rapporteur had in his report in March 2001 appealed for the protection of the new refugees and for additional humanitarian assistance to meet their survival needs and those of internally displaced persons. In his report submitted at the end of August 2001 (A/56/409), he had strongly endorsed the emerging consensus that only a comprehensive approach could effectively address the Afghan crisis as a whole in its political, humanitarian and human rights dimensions.

9. The decision of the international coalition to take measures against persons determined by them to be involved with the events of 11 September led them to focus their attention on Afghanistan. Military operations involving extensive air strikes were commenced on 7 October.

10. These military operations remain ongoing. The military action was declared to be targeted at those responsible for terrorism and at those who were harbouring them. The President of the United States of America, on 12 October 2001, had declared that the war against global terrorism was not a war on the people of Afghanistan, stating that the Afghan people were victims of oppression and misrule, and that there were few places on earth that faced greater misery. The intensity of the aerial bombardment and the targeting of cities led to large-scale evacuation from urban areas and to the loss of civilian lives, including those of women and children, and their sources of livelihood. In Kabul, warehouses of the International Committee of the Red Cross, in which food and other materials for emergency humanitarian assistance were stored, were repeatedly struck. It was also reported that a type of bomb fell near a village in Herat, scattering small bomblets over a considerable area. These posed a threat

to unwary villagers similar to those posed by mines. These reports raise questions which call for a proper inquiry as to whether there has been compliance with the requirements of international humanitarian law which prohibits indiscriminate and excessive use of force and casts an obligation to exercise due care to prevent injury to civilian lives and property.

11. The humanitarian crisis had been deepening even before the commencement of these operations. It was feared that this could develop into a humanitarian catastrophe. The humanitarian agencies estimated that the number of vulnerable persons would increase from 5.5 to 6 million, internal displacement would significantly increase and an additional 1.5 million refugees might seek to cross into neighbouring countries. The threat to life from starvation, lack of shelter and adequate winter clothing called for extraordinary measures. The distribution arrangements were disrupted as international staff of the relevant agencies were withdrawn, communication facilities available to local staff were restricted and access to distribution centres was obstructed. An emergency task force established in Islamabad to concert the efforts of the humanitarian agencies has prepared contingency plans for meeting survival needs. It has also estimated that substantial additional humanitarian assistance is needed for the purpose.

III. Recommendations contained in the original report

12. The focus of the recommendations in the original report was on striving for a durable political settlement to restore a unified Afghanistan to all of its peoples. It was urged that this be pursued through an inclusive and participatory process which would enable all segments of the Afghan people, inside and outside Afghanistan, to exercise their choice freely to establish a broad-based, multi-ethnic and truly representative government.

13. Such a government would be expected to respect its obligations under the Charter of the United Nations and the international human rights instruments to which Afghanistan is a party. The prospect of a massive internationally supported plan for national reconstruction would provide an incentive to all segments of the Afghan population to cooperate with the international community. It would enable millions of refugees and internally displaced persons to return to their homes and undertake the rebuilding of their lives in a unified country. This would require that security from external interference be internationally guaranteed.

IV. Further recommendations in the light of the impact of post-11 September developments

14. The new situation has in certain critical areas aggravated the humanitarian crisis, but at the same time has created opportunity and space for the Afghan people to become active participants in bringing about fundamental change.

15. There is a widely shared expectation that the United Nations can play a vital role in facilitating a transition from war to peace and in enabling the Afghan people to involve themselves actively in an inclusive participatory process through which a comprehensive political plan could be devised and implemented.

16. It is imperative that the Afghan people be central to the political plan, and that their human rights, long denied to them, and their legitimate expectation to live in freedom and with dignity in a society where peace is restored and the rule of law protects their lives and their livelihoods against violence and the depredations of powerful warlords, be realized. A critical lesson learned from the past and from the experience of other post-conflict societies is the commitment of the international community to establish effective transitional arrangements that would give due weight to these human rights imperatives.

17. As the possibility of the existing regime losing control becomes imminent, certain critical steps need to be taken as a matter of the utmost urgency to prevent a vacuum in which men, women and children could be exposed to the risk to their lives and property resulting from a breakdown of law and order and from possible massacres, as had happened in the past when territory changed hands. Interim internal security arrangements and practical mechanisms have to be kept ready to be put in place at short notice. The involvement of Afghans in such arrangements will be important. Community leaders and individuals who enjoy respect and confidence of people should have active and

visible roles in the interim administrative arrangements.

18. It cannot be emphasized enough that time is of the essence with regard to the taking of immediate interim measures. While the emergence of a broad-based and representative government through an inclusive participatory process may take some time, the failure to take the initial interim measures promptly, to meet urgent security needs and to deliver emergency humanitarian assistance could well jeopardize the entire process. These urgent measures to meet the human rights imperatives would include:

(a) In order to reduce fear and insecurity, and uncertainty as to the future among the people at large, the United Nations, through extensive consultations and contacts with the Afghan people at all levels, should project the basic goals to which the international community is committed, namely restoring a unified Afghanistan to all of its people. It must invite active participation of the people in building consensus and working together for national reconstruction, shaping institutions and structures of governance, and formulating a framework of rules to ensure transparency and accountability and respect for human rights. Extensive consultative processes should be accelerated with all segments of the Afghan population, including women, both inside and outside the country;

(b) The international coalition needs to review the conduct of its military operations so as to strictly comply with international humanitarian law and to demonstrate that these operations are not directed against the Afghan people. Appropriate measures must be taken immediately to prevent damage to civilian lives and property and disruption in the delivery of humanitarian assistance;

(c) The people's perception of the United Nations as the protector of their human rights would enhance its effectiveness in facilitating the transition. This perception could be promoted through a more visible role by the United Nations in a protective role and in providing humanitarian assistance. International United Nations staff should be redeployed inside Afghanistan immediately, albeit on a voluntary basis, so that they may be seen to be standing by the Afghan people in time of danger and to be interceding on their behalf to protect their rights and to bring emergency humanitarian assistance to them;

(d) Internal security arrangements should be worked out to be established in areas over which the existing regime loses control in order to prevent massacres and protect the life and property of citizens. Such arrangements could include agreements with local community leaders and forces which are not tarnished by a negative track record;

(e) Urgent measures should be adopted under the United Nations umbrella, including internal security arrangements to protect the civilian population inside Afghanistan and refugees from threats posed to their right to life. These could include the deployment of an internal security force; working out agreements with local community leaders and forces which are not tarnished by a negative track record to involve them in maintaining internal security; and issuing credible warnings to all parties to refrain from any form of summary execution and to indicate that those responsible for the recent summary execution of the Pashtun leader Abdul Haq and the assassination of Ahmad Shah Massoud, as well as others responsible for summary executions and massacres, could no longer expect to enjoy impunity as they had in the past and would be brought to justice;

(f) Access should be provided to media, including the possible establishment of a United Nations-sponsored radio station through which the voice of Afghan people, men and women, could be heard. This would harness the energies of Afghans in building consensus and mobilizing opinion in support of any political plan which emerges through the process facilitated by the United Nations and the implementation of such a plan.